

UNAPPROVED - DRAFT

**VIRGINIA BOARD of LONG-TERM CARE ADMINISTRATORS
BOARD MEETING MINUTES**

Tuesday, July 11, 2006

**Department of Health Professions
6603 West Broad Street
Richmond, Virginia 23230-1712
Conference Room 1**

CALL TO ORDER: The meeting of the Virginia Board of Long-Term Care Administrators was called to order at 9:38 a.m.

PRESIDING: Ted A. LeNeave, N.H.A.

MEMBERS PRESENT: Melanie Becker
Mary Blunt, N.H.A.
Kathleen Fletcher, R.N.
Andrea L. Fricke, A.L.F.A.
Martha H. Hunt, A.L.F.A.
Charlotte V. McNulty, P.C.
Bertha Simmons, N.H.A.
Mary Smith, N.H.A.

STAFF PRESENT: Sandra K. Reen, Executive Director
Cheri Emma-Leigh, Operations Manager
Robert A. Nebiker, Director, Dept. of Health Professions
Sandra W. Ryals, Chief Deputy Director, Dept. of Health Professions

COUNSEL PRESENT: Emily Wingfield, Assistant Attorney General

GUEST: Carrie Eddy, Department of Health

QUORUM: All nine members of the Board were present.

PUBLIC COMMENT: None.

APPROVAL OF MINUTES: Ms. Fricke moved to approve the Minutes of the Public Hearing held on January 10, 2006. The motion was seconded and passed.

Ms. McNulty moved to approve the Minutes of the Board Meeting held on January 10, 2006. The motion was seconded and passed.

REPORT ON NAB ANNUAL MEETING: Mr. LeNeave reported that he attended the Annual NAB meeting on June 7-9, 2006, in San Diego, California, and participated in the Continuing Education Committee and the Standards of Practice and State Governance and

Regulatory Issues Committee. He advised that he agreed to serve as the Vice Chair of the Standards of Practice and State Governance and Regulatory Issues Committee and as a co-facilitator for State Member Board Member Forum for the coming year.

He reported that there are 22 states currently participating in the NAB NHA Licensure Endorsement Agreement and that he had been asked if Virginia would enter the agreement. Ms. Reen referred to the minutes of the January 10, 2006 meeting to note that the Board had declined to enter into the agreement based on counsel's recommendation and her guidance that the Board cannot abrogate its regulations by agreement.

Mr. LeNeave suggested that the Board invite Randy Lindner, the executive director of NAB, to attend the next Board meeting to go over NAB's activities related to assisted living facility administrators. Ms. Reen agreed to invite Mr. Lindner.

**REPORT ON THE
NURSING FACILITY
ADVISORY COMMITTEE:**

Ms. Smith stated that the Committee met last month and the following issues were discussed:

- lateness of surveys
- staffing shortages
- training and hiring surveyors, and
- lack of psychiatric care.

She stressed that there is a huge issue regarding no place to discharge patients and that several associations will be working together to develop a proposal for the 2007 Session of the General Assembly.

LEGISLATIVE UPDATE:

Ms. Reen indicated that Elaine Yeatts, Senior Policy Analyst, was not available to give a legislative update, as she was reporting on the efforts underway to regulate medication aides and assisted living facility administrators to a legislative committee. Mr. Nebiker reviewed the following legislation with the Board:

- HB 351 Health regulatory boards; prohibition of certain transfers of moneys
- HB 354 Audiology; Board to issue provisional license;
- HB 618 Dialysis patient care technician;
- HB 851 Vaccines; authorizes hospitals to provide for

- administration of influenza and pneumococcal;
- HB 1501 Health regulatory board; investigations of licensees, certificate holders or registrants;
- SB 214 Health professions; reinstatement hearing for mandatory suspension or revocation of license; and
- SB 456 Nurse practitioners; expands prescriptive authority.

Mr. LeNeave asked about the types of cases that would be appropriate for advisory letters as addressed in HB 1501. Ms. Reen explained that this provides another option for disposition of a case at the probable cause review stage.

Ms. Blunt asked if HB 851 applied to nursing facilities. Mr. Nebiker indicated that he thought the bill was limited to hospitals.

Ms. Fletcher asked Mr. Nebiker if VIPCNS, Virginians Improving Patient Care and Safety, is making any progress on improving patient care. He indicated that they continue to hold annual meetings to discuss strategies.

**ADOPTION OF
REGULATIONS
AMENDING THE
EDUCATIONAL
REQUIREMENTS FOR
NURSING HOME
ADMINISTRATOR
LICENSURE:**

Ms. Reen advised that the regulations on course content for education programs are before the Board for final adoption and publication. She reported that the Board did not receive any requests for changes or any public comments on the regulations during the review process. Ms. McNulty moved to adopt the regulations on educational requirements for nursing home administrator licensure. The motion was seconded and passed. Ms. Reen stated the regulations will become effective 30 days after they are published as final regulations in the Registrar of Regulations.

**WASHINGTON, DC
REQUEST FOR
RECIPROCAL
AGREEMENT:**

Ms. Smith reported that the Credentials Committee met on February 14, 2006 to discuss the request from the D.C. Board for a reciprocal agreement on licensure of nursing home administrators. She reported that the Committee reviewed the reciprocity, endorsement and equivalency provisions of many other states then decided to recommend that the Board not pursue a reciprocal agreement with any state or territory. Ms. Fricke moved to accept the recommendation of the Committee. The motion

was seconded and passed.

In response to a question asked by Ms. Blunt, Mr. Nebiker discussed the nurse licensure compact concept and stated that there are approximately 25 states involved in compact. He also stated that no other boards are seriously considering this concept.

**STATUS OF PROPOSED
REGULATIONS FOR THE
LICENSURE OF ASSISTED
LIVING FACILITY
ADMINISTRATORS:**

Mr. LeNeave requested an update on Board's proposed regulations for licensing assisted living facility administrators. Mr. Nebiker reported that the JLARC Interim Report on Impact of Assisted Living Facility Regulations is out and asked Ms. Reen to provide copies to the Board members. He reported that several provisions of the emergency regulations issued by the Department of Social Services had been suspended but that both the proposals from Nursing and Long-Term Care are moving forward. Copies of the JLARC report were distributed.

Ms. Reen stated that Governor Kaine has approved the publication of the Board's proposed regulations for public comment and that the comment period will run through September 22, 2006. She reported that, with Mr. LeNeave's approval, the public hearing is scheduled for September 12, 2006 at 9:00 a.m. Mr. Nebiker advised that the notice for the comment period and hearing will be sent to every assisted living facility in the Commonwealth in addition to the Board's public participation list.

Ms. Reen encouraged Board members to attend the hearing as they will need to address the comment received at its next meeting. She stated that a transcript of the hearing would be made and would be available for anyone unable to attend the hearing. Ms. Wingfield stated that the issues involved are controversial and cautioned that the Board's responsibility during the hearing is to listen to the comments without engaging in a discussion.

**LETTER AND MATERIALS
FROM NAB ON ITS
ASSISTED LIVING
ADMINISTRATORS
LICENSURE
EXAMINATION:**

A letter from NAB on its exam for assisted living administrators was reviewed. Mr. LeNeave stated that NAB has a NHA Exam Committee and an Assisted Living Administrator Exam Committee. He asked if two board members might attend future NAB meetings so that both the program track for nursing home administrators and the

track for assisted living facility administrators might be attended. Ms. Reen responded that she could submit travel requests for more than one person when there are concurrent sessions.

After reviewing the Report on the Job Analysis of Assisted Living Administrators, Ms. Blunt stated that she was happy to see the way the percentages have worked out in the ratings for domains of practice in assisted living administration because they are consistent with the Board's proposals. She also noted that the charts on pages 14, 40 and 42 would be helpful in responding to public comments.

Ms. Reen was asked to obtain the job analysis and information guide for the NAB nursing home administrator exam.

**STATE LAW EXAM FOR
NURSING HOME
ADMINISTRATORS:**

Ms. Reen advised the Board that Professional Credentials Services (PCS), the testing agency that administers the Board's law exam needs guidance about exam content. She explained that the Department of Health changed their rules in January, 2006, to repeal a number of sections which addressed facility construction requirements. She reported that these changes affected the content of the Board's law exam. Ms. Reen stated she learned of the changes made by Health last month when a candidate questioned her failure of the examination. PCS conducted an immediate review of the Board's law exam to identify the questions affected by the changes, and reviewed the candidates' results for all exams administered after January 11th. PCS reported that one of the two candidates who had failed the exam would have passed if the facility construction requirements had not been on the test and factored into their score. Ms. Reen stated that applicant was advised of her corrected score and has since received her license.

Carrie Eddy with the Department of Health explained the sections had been repealed because construction is not regulated by her agency. She suggested that the law exam address maintenance, housekeeping and infection control practices. Mr. LeNeave asked if Ms. Eddy could foresee any additional changes. Ms. Eddy responded yes, that they are looking at strengthening the emergency

preparedness planning in 2006. She noted that the Hampton Roads corporate companies have implemented a plan to evacuate to other facilities. Ms. Eddy also indicated the importance of nursing facilities being self sustaining and invited the Board to participate in the regulatory process.

Ms. Reen advised that she needed two or three members of the Board to assist with evaluating the law exam content and to participate in an item review workshop. Ms. Blunt and Ms. Fricke volunteered to participate. Ms. Eddy accepted Mr. LeNeave's invitation to also participate.

In response to Ms. Reen's request for guidance on content, Ms. Smith moved to replace "Physical Environment" content section with an "Environmental Services" section and to have the item review workshop committee review questions on maintenance, housekeeping and infection control. The motion was seconded and passed.

OTHER BUSINESS:

Staffing - Ms. Reen reported that both wage staff left in June and that temps are currently being utilized. She reported that the delay in approving the State budget delayed the recruiting process for the new Executive Director position. Mr. Nebiker explained the plan to assign staffing of the Board to a new executive director position along with two other boards. He advised that recruitment is being planned and that he expected it might take about 90 days to have the new person in place.

Letter from Department of Taxation - Ms. Reen distributed a letter from the Department of Taxation, which states that the provision for nonprofit nursing homes, clinics and similar corporations to purchase medicines and drugs exempt from Virginia's retail sales and use tax, will, beginning July 1, 2006, be extended to include clinics, for-profit nursing homes, and other similar corporations, regardless of whether these entities qualify for the nonprofit exemption. Mr. Nebiker suggested that this information be included in the Board's next newsletter.

Mileage Reimbursement - Ms. Reen reported that the mileage reimbursement rate was increased to .445 effective July 1, 2006.

Public Participation Guidelines - Ms. Reen reported that

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a notice of intent to amend the Boards regulations on public participation was mailed out and initial comments will be accepted beginning July 24, 2006 and ending August 23, 2006.

**REPORT OF THE
NOMINATING COMMITTEE
AND ELECTION OF
OFFICERS:**

Ms. Smith reported that the Nominating Committee met this morning and recommends that Ms. Fricke remain Vice-Chair and Mr. LeNeave remain Chair. Ms. Blunt moved to adopt the recommendation. The motion was seconded and passed.

NEXT MEETING:

Mr. LeNeave reported that he would not be available for the next Board meeting and asked if the Board would consider changing the date. Mr. Nebiker suggested that changing the date may be advisable to assure enough time lapses after the public comment period on the ALFA regs and the Board's consideration of them. The consensus was to change the meeting date if possible and Ms. Reen agreed to poll the members for their availability on October 17th, October 24th, October 31st, November 7th, and November 14th.

ADJOURNMENT:

With all business concluded, the Board adjourned at 12:06 p.m.

Ted LeNeave, NHA, Chair

Sandra K. Reen, Executive Director

Date

Date